



## **Town of Southern Shores**

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Ordinance 2015-xx-xx

### **AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA**

#### **ARTICLE I. Purpose(s) and Authority.**

**WHEREAS**, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

**WHEREAS**, the following approved Land Use Plan goals were formulated through input from the public involvement process, and from the Town Staff, the Planning Board and Town Council:

1. To protect, enhance and support land uses that are compatible with surrounding land uses and maintain the existing community character of Southern Shores.
2. Preserve, protect, enhance, maintain and improve the natural environment and water quality within and near Southern Shores.

**WHEREAS**, within the Land Use Plan, Chapter IV, Plan for the Future:

A. Land Use and Development Goals, B. Land Use and Development Policies,

Policy 2, Action Item 2-b: The Town shall encourage the use of low impact development techniques and sound environmental preservation practices for all new development, remodeling and redevelopment within Southern Shores.

**WHEREAS**, within the Land Use Plan, Policy and Action Items are included:

Policy 26 Promote open space, tree protection, and natural vegetation diversity.

Action Item 26-b: Encourage lot preparation methods that preserve natural vegetation and minimize clear cutting.

1 Action Item 17-b: Continue enforcement of the Lot Disturbance provisions of the  
2 Town's Zoning Ordinance, and

3  
4 Policy #28c states: Create landscaping provisions in Town ordinances to create  
5 vegetative buffers to assist in improvements of water quality; and  
6

7 **WHEREAS**, the regulation of tree preservation, protection, and minimization of  
8 tree clear cutting during lot disturbance is reasonable and consistent with the approved  
9 Land Use Plan;  
10

## 11 **ARTICLE II. Construction.**

12  
13 For purposes of this ordinance amendment, underlined words (underline) shall be  
14 considered as additions to existing Town Code language and strikethrough words  
15 (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the  
16 adopted Town Code which are not repeated herein, but are instead replaced by an ellipses  
17 ("...") shall remain as they currently exist within the Town Code.  
18

## 19 **ARTICLE III. Amendment of Zoning Ordinance.**

20  
21 NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern  
22 Shores, North Carolina, that the Town Code shall be amended as follows:  
23

24 **PART I.** That Section 36-177 [Setback Preservation Requirements] be added as follows:  
25

### 26 **Sec. 36-177. Setback Preservation Requirements**

#### 27 (A) Purpose.

28  
29  
30 (1) The purpose of this section is to preserve and protect trees by minimizing removal of  
31 existing vegetation in side yard and rear yard Setback Areas during Lot Disturbance of all  
32 lots zoned within RS-1 District of the Town of Southern Shores (TOSS). The specific  
33 goals of this section are to:  
34

35 (a) Preserve the natural unique character and visual appearance of TOSS

36  
37 (b) Protect and enhance the quality of life and the general welfare of the residents  
38 and guests of TOSS

39  
40 (c) Preserve and maintain unique and fragile coastal habitats including the  
41 maritime forests, the vital wetlands, and the protective dunes

42  
43 (d) Reduce the impacts of development on the TOSS storm water drainage system

44  
45 (e) Protect native species of plants  
46

- 1 (f) Preserve the quality of our estuarine waters by preventing soil erosion and  
2 runoff and protecting water tables from salt intrusion  
3  
4 (g) Maintain property values  
5  
6 (h) Prevent wind pattern disturbances and salt spray penetration by maintaining  
7 natural vegetative barriers  
8  
9 (i) Enhance air quality by reducing dust and other pollutants suspended in the air  
10  
11 (j) Reduce noise and light pollution by creating a vegetative buffer and screen  
12  
13 (k) Reduce energy consumption through vegetation acting as a windbreak and  
14 producing shade  
15  
16 (l) Preserve nesting areas for birds and other wildlife, which in turn, assist in the  
17 control of insects and pollination of all plant species  
18

19 (B) Scope.  
20

21 (1) This section applies to all lots zoned RS-1 District within the boundaries of TOSS that  
22 are:

- 23 (a) Undeveloped Lots with no approved TOSS Building Permit  
24  
25 (b) Lots with a TOSS Building Permit for New Construction or Major Renovation  
26 (defined as a Building Permit issued in an amount greater than fifty percent of the  
27 existing assessed structure value)  
28

29 (C) Setback Preservation Requirements.  
30

31 (1) For Undeveloped Lots with no Lot Disturbance Permit or proposed Building Permit  
32 issued by TOSS:  
33

- 34 (a) A Lot Disturbance and Stormwater Management Permit must be filed by the  
35 property owner for any Lot Disturbance that involves removal of existing trees  
36 with a 12 inch or greater diameter at breast height (DBH). The Lot Disturbance  
37 Permit will be submitted with a Site Plan of the existing property that indicates  
38 side yard and rear yard Setback Areas, existing trees with a 12-inch or greater  
39 DBH, and the trees with a 12-inch or greater DBH planned for removal.  
40  
41 (b) There shall be no removal of any vegetation in the side yard and rear yard  
42 Setback Areas.  
43  
44 (c) No more than 25% of trees with a 12-inch or greater DBH may be removed.  
45 No trees may be removed from the Setback Areas, but 12-inch or greater DBH  
46 trees in the Setback Areas are to be considered part of the denominator in

1 determining the 25% removal calculation.

2  
3 (d) The Town Planner/Code Enforcement Officer may grant exception to the  
4 above if removal is required to prevent imminent danger to people or property.  
5 Likewise, exception may be granted in the case of dead, damaged or diseased  
6 trees.

7  
8 (2) For Lots with a Lot Disturbance Permit for New Construction or proposed Building  
9 Permit for Major Renovation:

10  
11 (a) A Site Plan must be submitted by the property owner with the Lot Disturbance  
12 and Stormwater Management Permit. The Site Plan must indicate all existing  
13 trees with a 12-inch or greater DBH within the outer 7 feet of the side yard  
14 Setback Areas and the outer 15 feet of the rear yard Setback Area. The Site Plan  
15 must indicate any such trees planned for removal.

16  
17 (b) A Vegetative Replacement Plan must be submitted by the property owner for  
18 any removal of trees with a 12-inch or greater DBH within the outer 7 feet of the  
19 side yard Setback Areas and/or the outer 15 feet of the rear Setback Area.

20  
21 (c) The Town Planner/Code Enforcement Officer may grant exception to the  
22 above where removal is unavoidably required for construction of driveways,  
23 infrastructure, outbuilding and other authorized improvements.

24  
25 (d) The Town Planner/Code Enforcement Officer may grant exception to the  
26 above for side yard and/or rear yard Setback Areas that abut a body of water,  
27 including ocean, sound, canal or pond.

28  
29 (e) The Town Planner/Code Enforcement Officer may grant exception to the  
30 above if removal is required to prevent imminent danger to people or property.  
31 Likewise, exception may be granted in the case of dead, damaged or diseased  
32 trees.

33  
34 (3) Vegetative Replacement Plan:

35  
36 (a) Where required, a Vegetative Replacement Plan will be submitted with the Lot  
37 Disturbance and Stormwater Management application. A Vegetative Replacement  
38 Plan is a written list of intended replacement vegetation to include: number, size,  
39 location, and species (if known).

40  
41 (b) Removal of a tree with a 12-inch or greater DBH requires a replacement tree  
42 (1:1 ratio) with a minimum above ground height of 4 feet at the time of planting  
43 or 2 replacement shrubs (2:1) ratio of 2 gallon size or greater. Such replacement  
44 vegetation is to be planted within the side and/or back Setback Areas.

45  
46 (c) Replacement vegetation must be installed within 9 months of the issuance of

the Certificate of Occupancy. Variance from the original Vegetative Replacement Plan is allowed as long as compliance is met with (b) above.

### (D) Violations and Penalties

(1) Violations of the above will be subjected to existing TOSS code.

**ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.**

The Town's adoption of this ordinance amendment is consistent with the Town's adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town's adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

**ARTICLE V. Severability.**

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

**ARTICLE VI. Effective Date.**

This ordinance amendment shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2015.

Mayor

ATTEST:

Date: x/x/2015

Deputy Clerk

Vote: Ayes    Nayes

APPROVED AS TO FORM:

Town Attorney